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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KIARA ROBLES,

Plaintiff,

v.

IN THE NAME OF HUMANITY, WE
REFUSE TO ACCEPT A FASCIST
AMERICA (a.k.a. ANTIFA), CITY OF
BERKELEY, ET AL.,

Defendants.

No. 4:17-cv-04864 CW

**DEFENDANT CITY OF BERKELEY'S
OPPOSITION TO MOTION FOR LEAVE
TO FILE MOTION FOR
RECONSIDERATION OF ORDER
REVOKING PRO HAC VICE
ADMISSION OF LARRY KLAYMAN;**

**JOINDER IN UNIVERSITY
DEFENDANTS' OPPOSITION TO
PLAINTIFF'S MOTION FOR
RECONSIDERATION**

Date: N/A
Time: N/A

I. INTRODUCTION

Plaintiff Kiara Robles ("plaintiff") seeks an order granting leave to file a motion for reconsideration of the Court's August 31, 2018 Order revoking the *pro hac vice* admission of her lawyer, Larry Klayman. The Court should deny plaintiffs' motion for all of the reasons below. On August 31, 2018, this Court issued an order granting the City's motion to revoke the *pro hac vice* admission of Mr. Klayman. ECF Doc. # 86. In its Order, the Court adopted its tentative ruling on the City's *pro hac vice* motion, entered on May 23, 2018. ECF Doc. # 49. On September 13, 2018, plaintiff filed this motion requesting leave to file a motion for reconsideration of the Court's

1 August 31, 2018 Order.

2 **II. ARGUMENT**

3 Plaintiff acknowledges that a party may seek reconsideration of an interlocutory court
 4 order only when the requirements of Local Rule 7-9(b) are met. Plaintiff asserts that there has
 5 been “a manifest failure by the Court to consider material facts or dispositive legal arguments
 6 presented before the entry of judgment.” ECF Doc. # 87 at 3:10-17. A court does not abuse its
 7 discretion in denying a motion for reconsideration when the moving party has failed to present
 8 any “arguments which the court has already considered and rejected.” *Fuller v. M.G. Jewelry*,
 9 950 F.2d 1437, 1442 (9th Cir. 1991).
 10

11 **A. The Court Did Not Fail to Consider the Plaintiff’s Argument That**
 12 **No Other Lawyer Would Represent Her**

13 Plaintiff asserts that the Court failed to consider sworn affidavits by plaintiff and her counsel
 14 Mr. Kolodzi (ECF Doc. # 71) in which they argue that plaintiff’s case will not be able to proceed
 15 without Mr. Klayman. ECF Doc. # 87:5:27-6:12. In fact, the Court did consider the issue raised
 16 by the affidavits of plaintiff and her local counsel, Mr. Kolodzi. At the July 17, 2018 hearing on
 17 the motion to revoke *pro hac vice* status, plaintiff’s counsel, Mr. Klayman, argued that “[t]here is
 18 no one else that will represent [plaintiff] except me in practice.” ECF Doc. # 87-1 at 7:20-24. In
 19 response, the Court stated, “Well, your local counsel is going to have to represent her if your pro
 20 hac vice status is revoked . . . [] If he isn’t able to do that, he’ll have to move to withdraw and
 21 she’ll have to find a new lawyer.” *Id* at 7:25-8:4. Mr. Klayman then argued extensively that
 22 plaintiff would have difficulty finding a new lawyer. (ECF Doc. #87-1 at 8:5-9:15). The Court
 23 rejected this argument in entering an Order that “Robles’ remaining counsel, Michael Kolodzi,
 24 shall continue to represent her.” ECF Doc. # 86 at 1:25-26. Thus, plaintiff’s argument that the
 25 Court “manifestly failed to consider” the affidavits of plaintiff and Mr. Kolodzi is without merit.
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B. The Court Considered and Rejected Mr. Klayman’s Argument That He Has Never Been Sanctioned

Plaintiff claims the Court did not consider Mr. Klayman’s argument that he “has never been sanctioned by the District of Columbia Bar” (ECF Doc. # 87 at 6:20-22, emphasis in original). The Court’s Order expressly rejected this argument, stating, “even though the D.C. Bar’s recommendation is still on appeal, its findings that Klayman violated Rules of Professional Responsibility were still instructive.” ECF Doc. # 86 at 1:21-24.

C. The Court Considered and Rejected Mr. Klayman’s Argument That the Dissenting Opinion in Bundy Is Controlling

Plaintiff asserts that the Court did not consider the dissenting opinion in the case *In re Bundy*, 840 F.3d 1034, 1054 (9th Cir. 2016). ECF Doc. # 87 at 7:15-28. However, plaintiff’s own motion *admits* that the Court considered the dissenting opinion by Judge Gould, and even cites to the portion of the Court’s Order where it states it “found the reasoning of the majority opinion to be more persuasive.” *Id.* at 7:15-16; *see also* ECF Doc. # 86 at 1:17-21. Thus, the Court should reject plaintiff’s argument that there was a “manifest failure by the Court to consider” the dissenting Opinion in *In Re Bundy*.

D. The City Joins in the UC Defendants’ Opposition to Plaintiff’s Request to Disqualify Judge Wilken

Defendants Regents of the University of California, Janet Napolitano, and Nicholas Dirks have filed an Opposition to Plaintiff’s Motion for Reconsideration, addressing the myriad reasons the Court should reject plaintiff’s motion to the extent it requests the Court reconsider plaintiff’s request for recusal and/or renewed motion to disqualify Judge Wilken. The City hereby joins in that opposition.

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1 **III. CONCLUSION**

2 For all of the foregoing reasons, the Court should deny plaintiff's motion for leave to file
3 a motion for reconsideration.

4
5 Dated: September 27, 2018

Respectfully submitted:

6 BERKELEY CITY ATTORNEY'S OFFICE

7 By: /s/
8 LYNNE S. BOURGAULT
9 DEPUTY CITY ATTORNEY
 Attorneys for Defendant City of Berkeley